IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION.

CENTRAL EXCISE APPLICATION NO. 28 OF 2001.

The Commissioner of Central Excise ... Applicant.
V/s.
Akash Industries ... Respondents.

Mr.R.V. Desai, Senior Counsel with Mrs.S.V. Bharucha for the petitioner.

None for the respondents.

CORAM : V.C.DAGA & J.P.DEVADHAR,JJ.

DATED : 19.6 .2006.

P.C. :

. Heard.

. On the following questions of law, this application was admitted.

1. Whether on the facts and in the circumstances of the case the Tribunal was right in law in holding that once the assessee accepts the duty liability and pays the duty during the investigation no penalty could be imposed later while ajudicating the show cause notice?

2. Whether mandatory penalty imposed under section 11C of the Central Excise Act, 1944 can be reduced or waived by the appellate authority?

. Mr. Desai, learned Senior Counsel appearing for the Revenue fairly concedes that the aforesaid questions are covered in favour of the petitioner and against the revenue in the case of Commissioner of Central Excise-I vs. Gaurav Mercantiles Ltd.,

(2005) (190) ELT 11 and in case of (2004) 163 ELT A52 In that view of the matter, application is rejected with no order as to costs.

(V.C.DAGA,J.)

(J.P.DEVADHAR,J.)